

A portion of the Motor Fuel tax collected by the Illinois Department Of Revenue is distributed by the Illinois Department of Transportation to local governments. See 35 ILCS 505/8. (This is a GIL.)

July 11, 2006

Dear Xxxxx:

This letter is in response to your letter dated May 26, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am the President of VILLAGE. I recently made an inquiry of the Motor Fuel Tax Department and they directed me to your attention. We currently lease a commercial building that is privately-owned. The building sits in front of a public park area. The owners have asked us to repave the drive and the parking lot of the building, as part of our common area maintenance. Although the drive is a road used by the general public to enter the community park, it is on private property. The parking lot is used only by the Village, as the sole occupant of the building.

The question is whether we can use motor fuel tax monies to pay for the repaving project. We have asked our Village Attorney for an opinion, and he has stated that unless the road is owned by the Village, we can't use motor fuel tax funds. I have reviewed the Motor Fuel Tax Law and I can't determine the limitations on how the funds may be utilized. I am looking for some direction, either as to the limitations on the use of motor fuel tax funds or an opinion as to whether this would be an appropriate usage of such funds.

Should you have any questions or concerns, please do not hesitate to contact me. Thank you for your assistance

DEPARTMENT'S RESPONSE:

Please be informed that although the Illinois Department of Revenue collects the Motor Fuel Tax, it is the Illinois Department of Transportation that distributes it to units of local government. Section 8 of the Motor Fuel Tax Law states, in part, that the Department of Revenue shall reserve an amount of the tax to pay "[t]he costs of the Department of Transportation in performing its duties imposed by the Illinois Highway Code for supervising the use of motor fuel tax funds apportioned to municipalities, counties and road districts." See 35 ILCS 505/8(d)(2).

Questions about the Department of Transportation's distribution of Motor Fuel Tax can be addressed to the Department of Transportation's Bureau of Local Roads and Streets at phone number (217) 782-3970. The Department of Transportation also maintains a web page that can be accessed at www.dot.state.il.us.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk